IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

WRIT PETITION NO.2228 OF 2004

Sambhaji Ganpat Boinwad. ...Petitioner.
Vs.
State of Maharashtra & Ors. ...Respondents.
....
Mr.Nivas Kambli i/b. Mr. A.M. Saraogi for the Petitioner.
Mr. Pradeep Jadhav, AGP for the State.
Mrs.Deepa Chavan i/b. M/s. Little & Co. for Respondent No.4.
Mr. S.G. Surana for the Applicant in Ch/S.No.147 of 2006.
.....

CORAM : SWATANTER KUMAR, C.J. &
DR.D.Y.CHANDRACHUD, J.

September 12, 2007.

P.C. :

In this petition under Article 226 of the Constitution of India, the Petitioner has prayed for issuance of a direction to the Respondents to provide him alternative premises as per his claim and further that the action of the Respondents, directing the demolition in respect of the Petitioner's Structure admeasuring 15' x 12' situated at Gautam Nagar, Opp. R. K. Mills, MIDC Central Road, Andheri (East), Mumbai be also stayed.

2. Having heard the Learned Counsel for the parties, we are

of the considered view that the present Writ Petition has no merit. The authorities concerned had issued a final notice under Section 33 read with Section 35 of the Maharashtra Slum Area (Improvement, Clearance and Redevelopment) Act, 1971 and the Bombay Government Premises Eviction Act, 1955 on 17th May 2004. In the said order, the documents furnished by the Petitioner were duly considered and he was also directed to remain present. After hearing him, the authorities rejected the claim for alternative accommodation and the principal ground is that the Petitioner and his son were living together in the same premises and it is not disputed before us that the son has been granted alternative accommodation. The plea now raised before us is that they were living separately. However, there is hardly any merit particularly in view of Exhibit 'C', the affidavit dated 21st July 1989. In para 3 of the affidavit, the Petitioner has stated as under :

> "3. I say that I am having one son and four daughters viz. Vimal, Shivaji, Mahananda, Sunanda & Papita. My son Shivaji has got married on 10-5-1987. Therefore due to some family difficulties and for our privacy of life, I decided to partition the said premises into two parts after negotiation and appropriate documents with my son Shivaji. Therefore, the aforesaid premises are divided into two parts i.e. Room No.121 and Room No.122 as per the

documentary evidence."

3. In view of of the submission made on behalf of the Respondents, it would not be appropriate for this Court to go into the disputed questions of fact, particularly when at one point, the Petitioner and his son were living together. No document has been placed before the Court to show that the impugned order is either contrary to law or has been passed arbitrarily. There is no merit in the petition. The Petition is dismissed. No costs.

CHIEF JUSTICE

Dr.D.Y. CHANDRACHUD, J.